



# Chemical Weapons Convention Bulletin

Department of Commerce  
Bureau of Industry and Security

## Chemical Weapons Convention: Export and Import Requirements

The Chemical Weapons Convention (CWC) contains restrictions, and annual report and advance notification requirements for exports and imports of certain scheduled chemicals. The Bureau of Industry and Security (BIS) has implemented these requirements in the Export Administration Regulations (EAR) (15 CFR 730 et seq.), which control dual-use exports, and the Chemical Weapons Convention Regulations (CWCER) (15 CFR 710 et seq.), which establish import controls, and export and import reporting (including advance notification) requirements.

Other agencies also have jurisdiction over the export and import of CWC chemicals. The Department of State regulates the export of munitions items, which include certain CWC chemicals, under the International Traffic in Arms Regulations (ITAR) (22 CFR 120 et seq.). The Department of Treasury's Bureau of Alcohol, Tobacco, and Firearms controls certain imports of CWC chemicals on the U.S. Munitions List. Treasury's Office of Foreign Assets Controls regulates exports and imports of certain CWC chemicals to or from embargoed destinations.

This publication provides guidance to industry on complying with export and import requirements imposed by the EAR and CWCER.

### **Schedule 1 Chemicals<sup>1</sup>**

Export and Import Prohibitions. Persons (including facilities and trading companies) may only export or import a Schedule 1 chemical to or from a State Party for research, medical, pharmaceutical or protective purposes. Exports to and imports from States not Party to the CWC are prohibited. All reexports are prohibited.

Export Controls. A license is required under the EAR and ITAR to export a Schedule 1 chemical to any destination, including Canada. The ITAR controls the export of all Schedule 1 chemicals except the following five chemicals

<sup>1</sup> See supplement no. 1 to Part 712 of the CWCER for a list of Schedule 1 chemicals.

subject to EAR control: ricin and saxitoxin (Export Control Classification Number (ECCN) 1C351); and O-Ethyl-2-diisopropylaminoethyl methyl phosphonite (QL), ethylphosphonyl difluoride, and methylphosphonyl difluoride (ECCN 1C350). Persons seeking to export an EAR-controlled Schedule 1 chemical to any State Party must submit a license application to BIS's Office of Exporter Services.<sup>2</sup>

Advance Notification. In addition to export license requirements under the EAR and ITAR, exporters (regardless of whether the Schedule 1 chemical is controlled by the EAR or ITAR) and importers must notify BIS 45 days in advance of a proposed export or import of a Schedule 1 chemical. Section 712.5(a)(i) of the CWCER and section 745.1(a)(1) of the EAR require the following information to be forwarded to BIS's Treaty Compliance Division<sup>3</sup> on company letterhead:

- chemical name;
- structural formula of the chemical;
- chemical abstract service registry number;
- quantity involved in grams;
- planned date of export or import;
- purpose (end-use) of export or import;
- name(s) of exporter and importer;
- complete street address of exporter and importer;
- U.S. export license or control number, if known; and
- company identification number, once assigned by BIS.

Upon receipt of the notification, BIS will inform the exporter of the earliest date after which the shipment may occur.

Annual Report. Persons that export or import any quantity of Schedule 1 chemicals during the previous calendar year must submit an annual report on exports and imports to BIS's Treaty Compliance Division by February 28 of the

<sup>2</sup> Bureau of Industry and Security, U.S. Department of Commerce, 14<sup>th</sup> and Pennsylvania Avenue N.W., Room 2705, Washington, DC 20044, Attn: "Application Enclosed."

<sup>3</sup> Treaty Compliance Division, Bureau of Industry and Security, U.S. Department of Commerce, 1555 Wilson Boulevard, Suite 700, Arlington, VA 22209; fax (703) 235-1481.



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following calendar year. BIS aggregates all data from reports to establish the U.S. national declaration on exports and imports, which is sent to the Organization for the Prohibition of Chemical Weapons (OPCW).

**Mixture Rule.** The EAR and CWCRC exempt mixtures containing less than 0.5 percent aggregate quantities of Schedule 1 chemicals as unavoidable by-products or impurities (hereinafter "0.5 percent exemption") from Schedule 1-related license requirements, export and import prohibitions relating to States not Party to the CWC, and advance notification and annual report requirements.

For example, if a person seeks to export a chemical mixture that contains 0.2 percent impurities of QL, no export license is required to any destination, and there is no prohibition on the mixture's reexport or export to a non-State Party pursuant to ECCN 1C350. However, the exporter could have an export license requirement for other chemicals contained in the mixture, or for end-use or end-user concerns.

## **Schedule 2 Chemicals<sup>4</sup>**

**Export and Import Prohibitions.** The EAR, ITAR, and CWCRC prohibit the export and import of any Schedule 2 chemical to or from States not Party to the CWC.

**Export Controls.** The EAR control all Schedule 2 chemicals except Amiton and BZ, which are controlled by the ITAR. Schedule 2 chemicals subject to Australia Group controls ("CB" control) under the EAR require an export license to certain destinations (including all States not Party to the CWC, which generally will be denied) pursuant to ECCNs 1C350 and 1C395. Schedule 2 chemicals controlled only for CWC purposes ("CW" control) under ECCN 1C355 require a license for export to States not Party to the CWC, which generally will be denied, or to a designated terrorist supporting country ("AT" control) or prohibited end-user.

**Mixtures.** The EAR exempt mixtures containing Schedule 2 chemicals controlled for "CB" reasons from license

requirements (except for "AT" reasons) if the concentration of each Schedule 2 chemical in a mixture is 30 percent or less by weight (ECCN 1C350), except for exports to States not Party to the CWC. The EAR exempt mixtures containing Schedule 2 chemicals from export prohibitions relating to States not Party to the CWC if:

- the concentration of each Schedule 2B chemical is 10 percent or less by weight (ECCNs 1C355, 1C395<sup>5</sup>);
- the concentration of PFIB is 1 percent or less by weight (ECCN 1C355); or
- the Schedule 2 chemical is a normal ingredient in consumer goods packaged for retail sale for personal use or packaged for individual use (ECCNs 1C350, 1C355, 1C395).

Exports containing more than 1 percent PFIB or more than 10 percent of a Schedule 2B chemical require a license to States not Party to the CWC (ECCNs 1C355, 1C395), which will generally be denied.

For example, a mixture containing 20 percent of thiodiglycol (ECCN 1C350) does not require a license for export to a State Party (except for "AT" reasons) but is prohibited from being exported to a State not Party to the CWC. A mixture containing 35 percent of thiodiglycol requires a license for export to certain States Parties<sup>6</sup> and is prohibited from being exported to a State not Party to the CWC. A mixture containing 7 percent of thiodiglycol does not require a license for export to any destination, including a State not Party to the CWC, except for "AT" reasons. An ink mixture containing thiodiglycol at any concentration used in ball point pens does not require a license for export to any destination, including a State not Party to the CWC, except embargoed destinations.

The CWCRC exempt mixtures containing Schedule 2 chemicals from import prohibitions relating to States not

<sup>5</sup> ECCN 1C395 was created as a separate entry for mixtures, and medical, analytical, diagnostic, and food testing kits as they relate to "CW" controls. (See Federal Register Notice published May 31, 2002, Vol. 67, No. 105.)

<sup>6</sup> Exporters must use the EAR's Commerce Control List and country chart to make this determination.

<sup>4</sup> See supplement no. 1 to Part 713 of the CWCRC for a list of Schedule 2 chemicals.



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Party to the CWC if the concentration of each Schedule 2 chemical in a mixture is 10 percent or less by weight.

**Annual Report.** Persons (including plant sites and trading companies) that imported or exported in excess of the following quantities of a Schedule 2 chemical during the previous calendar year must submit an annual report on exports and imports to BIS by February 28 of the following calendar year:

- 1 kg of BZ;
- 100 kgs of PFIB or Amiton (and corresponding alkylated or protonated salts); and
- 1 mt of Schedule 2B chemicals.

A plant site that produced, processed, or consumed a Schedule 2 chemical above the aforementioned quantities and also exported or imported that same Schedule 2 chemical in excess of such quantities must include the export or import information on its plant site declaration. The U.S. Government will forward company-specific plant site declarations to the OPCW.

BIS aggregates all export and import data from reports and declarations to establish the U.S. national declaration on exports and imports, which is sent to the OPCW.

**Mixtures.** The CWCR exempt mixtures containing Schedule 2 chemicals from annual report and/or declaration requirements if the concentration of each Schedule 2 chemical in a mixture is less than 30 percent by weight.

## ***Schedule 3 Chemicals***<sup>7</sup>

**Export Controls/End-Use Certificates (EUCs).** The EAR and ITAR prohibit the export of any Schedule 3 chemical to States not Party to the CWC unless an EUC is obtained. The EAR control the export of all Schedule 3 chemicals except chloropicrin, which is controlled by the ITAR.

Schedule 3 chemicals controlled by 1C350 require an export license to certain destinations for “CB” reasons. All

other Schedule 3 chemicals controlled for “CW” reasons pursuant to ECCN 1C355 do not require a license if an EUC is obtained, except for “AT” reasons. If an EUC is not obtained for a Schedule 3 chemical, an export license is required for “CW” reasons, which will generally be denied.

Regardless of whether the Schedule 3 chemical is subject to EAR or ITAR control, persons (including facilities and trading companies) exporting any quantity of a Schedule 3 chemical (including sample shipments) to States not Party to the CWC must obtain an EUC from the government of the importing destination. The EUC may be issued directly by the government or may be approved by the government via official seal, stamp, etc. on the importing company’s letterhead. The EUC may be issued to cover aggregate quantities against which multiple shipments may be made to a single consignee.

Section 745.2 of the EAR contains the reporting requirements for EUCs, which must state:

- that the chemicals will be used only for purposes not prohibited by the CWC;
- that the chemicals will not be transferred to other end-user(s) or end-use(s);
- the types and quantities of chemicals;
- their specific end-use(s); and
- the name(s) and complete address(es) of end-user(s).

A copy of the EUC must be submitted to BIS’s Treaty Compliance Division within 7 days of the date of export.

**Mixtures.** The EAR exempt mixtures containing Schedule 3 chemicals from license (except for “AT” reasons) and EUC requirements if:

- the concentration of each Schedule 3 chemical is less than 30 percent by weight (ECCNs 1C350, 1C355, 1C395); or
- the Schedule 3 chemical is a normal ingredient in consumer goods packaged for retail sale for personal use or packaged for individual use (ECCNs 1C350, 1C355, 1C395).

<sup>7</sup> See supplement no. 1 to Part 714 of the CWCR for a list of Schedule 3 chemicals.



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For example, a mixture containing 25 percent of triethanolamine (ECCN 1C350) does not require a license for export to any destination, including a State not Party to the CWC, except for “AT” reasons. A mixture containing 40 percent of triethanolamine requires a license for export to certain States Parties.<sup>8</sup> To export this same 40 percent mixture to a State not Party to the CWC, an export license may be required and an EUC must be issued by the government of the State not Party to the CWC. Detergent containing any concentration of triethanolamine does not require a license for export to any destination, including a State not Party to the CWC, except embargoed destinations.

**Annual Report.** Persons (including plant sites and trading companies) that exported or imported in excess of 30 metric tons of a Schedule 3 chemical during the previous calendar year must submit an annual report on exports and imports to BIS by February 28 of the following calendar year. BIS aggregates all data from reports to establish the U.S. national declaration on exports and imports, which is sent to the OPCW.

**Mixtures.** The CWCRC exempt mixtures containing Schedule 3 chemicals from annual report requirements if the concentration of each Schedule 3 chemical in a mixture is less than 80 percent by weight.

## Technology Exports

**Production Technology.** The EAR control the export and reexport of technology related to the production of PFIB, phosgene, cyanogen chloride, and hydrogen cyanide for “CW” reasons under ECCN 1E355. A license is required to export and reexport such technology to States not Party to the CWC, except Israel and Taiwan.

**Inspections.** The EAR and ITAR prohibit the visual and oral release of certain technology related to Schedule 1, 2, and 3 chemicals to certain foreign nationals pursuant to the deemed export rule.<sup>9</sup> BIS established a license exception

(“GOV”) for the release of EAR-controlled technology (except items controlled for missile technology (“MT”) reasons) to OPCW inspectors relating to a CWC inspection, including technology released as a result of:

- visual inspection of U.S.-origin equipment or facilities;
- oral communication of controlled technology; or
- application to situations abroad of personal knowledge or technical experience acquired in the United States.

BIS host team leaders will determine whether inspector requests for information or visual access related to EAR-controlled technology are consistent with this exception.

There is no license exception for the release of ITAR-controlled technology to OPCW inspectors. ITAR-controlled technology may not be divulged without the express permission of the Department of State. Facilities are responsible for identifying ITAR-controlled technology related to inspection activities to BIS host teams in order to prevent inadvertent release.

## Further Information

To learn more about CWC export and import requirements, visit our website at [www.cwc.gov](http://www.cwc.gov) or contact BIS's Treaty Compliance Division at (703) 605-4400 or fax (703) 605-4424.

<sup>8</sup> Exporters must use the EAR's Commerce Control List and country chart to make this determination.

<sup>9</sup> The “deemed export rule” is drawn from the definition of export, found at section 734.2(b)(ii) of the EAR.